



City of Carmel

Carmel Board of Zoning Appeals Regular Meeting Monday, November 28, 2005

The regularly scheduled meeting of the Carmel Board of Zoning Appeals met at 6:00 PM on Monday, November 28, 2005, in the Council Chambers of City Hall, Carmel, Indiana. The meeting opened with the Pledge of Allegiance.

Members in attendance were Kent Broach, Leo Dierckman, James Hawkins and Earlene Plavchak, thereby establishing a quorum. Angie Conn and Mike Hollibaugh represented the Department of Community Services. John Molitor, Legal Counsel, was also present.

Mr. Dierckman moved to approve the minutes of the October 24, 2005 meeting as submitted. The motion was seconded by Mr. Broach and **APPROVED 4-0.**

Mrs. Conn gave the Department Report. Items 1h, Ritz Charles Reception Tent and 2-5h, Baby Tract, lots 20-21 – St. Mary & St. Mark Coptic Orthodox Church have been Tabled. The Board would need to suspend the rules to hear Item 7, Carmel/Clay Schools, Soccer Fields at River Road for 10 days public notice.

Mr. Molitor did not have anything to report. He would like to discuss the December 12 meeting schedule at the end of this meeting.

H. Public Hearing.

1h. ~~TABLED Ritz Charles, Reception Tent~~

~~The applicant seeks the following use variance approval:~~

~~**Docket No. 05090023 UV — ZO Chapter 23B.03 — permitted uses**~~

~~The site is located at 12156 N Meridian St. and is zoned S2/Residence & B6/Business within the US 31 Overlay. Filed by Dave Coots of Coots Henke & Wheeler for Ritz Charles.~~

2-5h. ~~TABLED Baby Tracts, lots 20-21 – St. Mary & St. Mark Coptic Orthodox Church~~

~~Petitioner seeks special use approval to expand the church parking lot.~~

~~**Docket No. 05090019 SUA — Chapter 9.02.A — special use expansion**~~

~~**Docket No. 05090020 V — Chapter 23E.07.C.1 — parking in front yard**~~

~~**Docket No. 05090021 V — Chapter 23E.07.C.2 — no parking lot curbing**~~

~~**Docket No. 05090022 V — Chapter 9.04.03.F — over 35% lot coverage**~~

~~The site is located at 800 E 110th Street and is zoned R 3/Residence within the Home Place District. Filed by Robert Epstein of Epstein, Cohen, Donahue, Mendes.~~

6h. Old Town Apartments, Robinson

Petitioner seeks special use approval for a three-unit, multi-family use.

Docket No. 05100009 SU Chapter 16.02.A Special Use

The site is located at 740 N Range Line Rd. and is zoned B-5/Business within the Old Town Overlay- Character Subarea.

Filed by Bill Wendling of Campbell Kyle Proffitt for Pat Robinson.

Present for the Petitioner: Scott Smith, Campbell Kyle Proffitt. The Special Use is needed to allow a 3-unit dwelling in the B-5 district. Mr. Robinson had been denied this Special Use in January of 2000 because the square footage of each unit would be less than 800 square feet. In 2003 he received a Variance to allow each unit at this property to be less than the required 800 square feet. This meets the goal of mixing businesses with residences in this district.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Public Hearing was closed.

Mrs. Conn gave the Department Report. The site has the required parking and landscaping and is within the Old Town Overlay where mixed use is encouraged. The Department recommended positive consideration of this docket.

Mr. Dierckman moved to approved **05100009 SU, Old Town Apartments, Robinson**. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**.

7h. Carmel/Clay Schools, Soccer Fields at River Rd

The applicant seeks a special use approval amendment for sports fields and parking:

Docket No. 05100011 SUA Chapter 5.02 Special Use in S-1 Zone

The site is located at the northwest corner of River Rd and 126th Street. The site is zoned S-1/Residence-Low Density and is within the Special Flood Hazard Zone.

Filed by George Zboyovsky of Paul I Cripe for Carmel/Clay Schools.

Mr. Broach moved to suspend the rules to allow ten-day public notice. The motion was seconded by Mrs. Plavchak and **APPROVED 4-0**.

Present for the Petitioner: Chris Wise, Paul I. Cripe & Associates. The revised site plan was shown. The DNR report indicated the previously approved plan had the fields in the floodway. The whole site needs to be shifted south to within 50 feet of 126th Street instead of the approved 300 feet. The existing trees would be preserved. The field and parking to the north of the ditch in Phase II would be eliminated. The parking and landscaping would remain the same. The restroom/storage areas would be moved east and further from the residences.

Remonstrance:

Dan Lynch, 12537 Medalist Parkway, wanted to know if the number of parking spaces had changed.

Mr. Wise stated it was the same number.

David Stamps, Medalist Parkway, stated that this would move the project 250 feet closer to the subdivision than previously agreed upon. This is a major shift from the woods toward populated area and would intensify the noise. They had worked very hard on the previously approved plan.

Rebuttal:

Mr. Wise stated the screening and landscaping would all remain the same.

Public Hearing was closed.

Mrs. Conn gave the Department Report. The Department recommended positive consideration after all the concerns have been addressed and also have this petition subject to the previously approved commitments.

Mr. Dierckman asked to see the original plan.

The original and revised plans were shown side-by-side on the overhead.

Ron Farrand, Carmel/Clay School Corporation, stated that the project north of the ditch (Phase II) had been abandoned. That was part of the Dad's Club project and they are not pursuing it. The Dad's Club use will remain the same on the six remaining fields.

Discussion followed regarding the landscaping, the location of the fields and concession stand on the site and the area of the floodway.

Mr. Wise stated that if any work was done in the floodway, they would need to mitigate the trees and that would not be feasible at a cost of \$250,000.

Mr. Farrand stated that the neighbors by Phase II were not present at this meeting because they would no longer have the soccer field located near their subdivision. The City of Carmel will have a well and building easement on the west side of the property, but there will not be a road. The high school will use the fields for practice in the fall. The Dad's Club games will be on Saturdays, with some Sundays, in the spring. Part of the cost of the project was being undertaken by the Dad's Club. If they are eliminated from the picture, the whole process falls on the school corporation.

Mr. Hawkins moved to approve **Docket No. 05100011 SUA, Carmel/Clay Schools, Soccer Fields at River Road**. The motion was seconded by Mr. Broach and **APPROVED 4-0**.

8-12h. West Carmel Marketplace - Home Depot

The applicant seeks the following development standards variances:

Docket No. 05100019 V	ZO Chapter 25.07.02-09(b)	number of signs
Docket No. 05100020 V	ZO Chapter 25.07.02-09(b)	signage oriented west
Docket No. 05100021 V	ZO Chapter 25.07.02-09(c)	sign square footage
Docket No. 05100022 V	ZO Chapter 23C.10.02(2)	foundation plantings
Docket No. 05100023 V	ZO Chapter 23C.09.D	façade projections/recessions

The site is southeast of 99th St. & Michigan Rd. and is zoned B-3/Business within the US 421 Overlay. Filed by Mary Solada of Bingham McHale for Home Depot.

Present for the Petitioner: Mary Solada, Bingham McHale. Also present were architects Jeff Nance and Aaron Hurt from Greenberg Farrow. She gave an overview of the Home Depot project and area. Duke Construction and Home Depot have spent time visiting with the three homeowners groups, especially Spring Arbor. They would like three signs on the west façade of The Home Depot, for name, nursery and contractor pick-up. This is one less sign than presented in the packet. They want the signs to face west toward Michigan Road. They are seeking 229 square feet instead of the 150 square feet which are allowed. This is 14 square feet less than what was presented in the package. They have worked closely with the Department for design elements for this all brick facility. The Ordinance requires landscaping at the foundation of the building. On the south and east facades, they are suggesting these be eliminated for the delivery area and the garden center area. They would like to use planters on the garden center side. They would like to plant more evergreens on the boundary of these facades. The Ordinance requires certain offsets to add some design elements, instead of a solid brick wall. The north façade will eventually have a building attached. The south (garden center) façade will have projections consistent with Target and Marshall's. The west (front) façade is very close to what the Ordinance requires. The east (rear) façade varies the most from the Ordinance.

Jeff Nance, Greenberg Farrow Architects, stated that they felt they complied with the Ordinance along the front (west) of the building. That is the main entrance for pedestrian traffic. The garden center side (south) has a wall surrounding the garden center, so they did not have much flexibility with extending the wall to eight feet because of the plantings and driveway. It would have some ornamental metal window frames and eight-inch projections. The rear of the building (east) will be a loading zone with no pedestrian traffic. They have provided additional landscaping along Commerce Drive to shield this area and walls to shield the loading area.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Public Hearing was closed.

Mrs. Conn gave the Department Report. The Department recommended favorable consideration of all the variances for the signage and the landscape planting. The Department recommended negative consideration of the façade projections and recessions. The building is over 103,000 square feet and it should provide the projections and recessions to maintain the quality of the US 421 corridor.

Discussion followed regarding the brick color, the signage color, projections/recessions and the number of signs at the Lowe's on 146th Street.

Mrs. Conn stated that Lowe's does have three signs addressing the garden center.

Mike Hollibaugh stated that Lowe's has four signs. They have four frontages facing four roads, therefore, they did not need variances. They have identification for the indoor lumber yard and for the garden center. He was not sure the requirements were the same in the US 31 Overlay as in the US 421 Overlay. He had a site plan of the Lowe's for comparison. The Lowe's building does have some offsets.

Ms. Solada stated that Commerce Drive was scheduled to be extended south to 96th Street. She shared pictures of the facades of neighboring buildings.

Mr. Broach stated the plantings should be subject to the Urban Forester's approval.

Cindy Schembre, Senior Vice President, Duke Realty, stated the eight-inch projections were consistent, because landscaping covers the back of the Duke buildings. All of the buildings from Marshall's south to 96th Street have been approved for 8-inch projections.

Mr. Dierckman moved to approve **05100019 V through 05100023 V, West Carmel Marketplace – Home Depot**. Mr. Broach asked to **amend** the motion to include approval by the Urban Forester for the plantings. Mr. Dierckman amended his motion. The motion was seconded by Mr. Hawkins. All variances were **APPROVED 4-0**, with the approval of the Urban Forester for **05100022 V**.

13-16h. West Carmel Marketplace - Retail Shops

The applicant seeks the following development standards variances:

Docket No. 05100025 V ZO Chapter 25.07.02-09(b) number of signs – Best Buy
Docket No. 05100026 V ZO Chapter 25.07.02-09(c) sign square footage – Best Buy
Docket No. 05100027 V ZO Chapter 3.07 ID sign definition (logo %) – Best Buy
Docket No. 05100028 V ZO Chapter 25.07.02-09(b) building signage oriented west
The site is at 9901 N Michigan Rd. and is zoned B-3/Business within the US 421 Overlay. Filed by Mary Solada of Bingham McHale for Duke Construction, LP.

Present for the Petitioner: Mary Solada, Bingham McHale. Also present were Cindy Schambre, Duke Realty and Rodney Reed, Duke Construction. They will be eliminating the blue from the logo and reducing the size of the logo. Under the Ordinance, they are limited to 100 square feet on the west side of the building and 115 on the south side. They are allowed more flexibility under a variance approved in September 2004. They want 144 square feet for each. There will be a logo in conjunction with channel lettering. They will have signage on the south and west facades. Pictures were shown. The Ordinance limits the logo to 25 percent of the sign area. The Best Buy logo is 41.7 percent because they have eliminated the trademark blue. They are clarifying that they should have signage oriented to Michigan Road which is the front. The Spring Arbor Neighborhood Association was pleased with these variances.

Cindy Schambre stated that they had been working with Best Buy for almost a year to obtain this elevation that was acceptable to the City. They had tried hard to get the blue logo and big yellow price tag. It was suggested the architecture be enhanced with the tower on the south side. The City Staff suggested the white tag with black letters.

Members of the public were invited to speak in favor or opposition to the petition; no one appeared.

Public Hearing was closed.

Mrs. Conn gave the Department Report. This will be a better location of signs for the neighborhood to the east of the site and for the businesses because of the volume of vehicular traffic on Michigan Road. The Department recommended positive consideration of all the dockets.

Discussion followed regarding the elevations, the signage on each elevation and the lighting onto the building.

Ms. Schambre stated this amount of signage will be needed when the roads are completed so there would be more of a chance to see them. One of the signs will be on the tower on the south elevation. The signs will be backlit. There had been some confusion at the Special Study Committee regarding the lighting. However, there are no spot lights onto the building. The lighting is from the poles in the parking lot onto the entrance for pedestrian traffic.

Mrs. Conn will correct the lighting issue in the docket information.

Mr. Dierckman moved to approve **Docket Nos. 05100025V, 05100026V, 05100027V and 05100028V**. The motion was seconded by Mr. Hawkins and all dockets were **APPROVED 4-0**.

17h. MMTAT - Mobile Testing Center

The applicant seeks the following use variance approval:

Docket No. 05100039 UV ZO Chapter 13.01 permitted uses

The site is located at 13090 N Pennsylvania St. and is zoned B2/Business within the US 31 Overlay. Filed by Bob Penaloza of MMTAT.

Present for the Petitioner: James Ramsey, CEO with MMTAT (Mobile Marketing Training And Testing). This is a temporary high-stakes testing facility at the Hilton Garden Inn. They provide testing for the Department of Home Land Security and a number of State and Federal governments. They contacted the Code Enforcement Office on September 21. They were told their temporary site would not be an issue and would easily be handled with a Temporary Use permit, which they filled out and turned in. Obviously it has become more complicated. The testing process includes the advance scheduling of candidates, as well as test materials. Hotels usually have the size room they need for 20 candidates, but not on consecutive days. They were not able to find office suites with the right size or short-term leases. This is a temporary fix because there are not enough seats in the permanent testing centers in this area. Carmel was identified by the State as one of those areas. The testing is for certification for CPA's, medical board, clinical lab, nurse's certification, architects, etc. This is a self-powered, state-of-the-art testing facility with satellite communications providing high-stakes exams for those seeking professional certifications. The interior of the vehicle is more identified as office space. The retail value of this vehicle exceeds \$1.25 million. There will be no residual impact to the property or to any of the neighboring properties. This is a temporary stop-gap measure while they increase permanent testing facilities.

Remonstrance:

Andrea Osborne, ManorCare at Summer Trace, across the street from this facility. They are not completely against it, but they are not favorable to how it looks. There are plastic seats out front. ManorCare has 250 residents who have lived in Carmel and they want to know when it is leaving. They want to know what kind of business it is doing and if it is a reputable business.

Rebuttal:

Mr. Ramsey stated that they are not a fly-by-night operation. The State Boards made the initial request for them to be in Carmel. They would not go into an area where they are not welcome. They have to pre-schedule all the candidates and the testing supplies. They were willing to move to another site in the City. The State of Indiana had asked them to stay until the end of January. They stopped reservations after the end of December because of this Use Variance. They are strictly a mobile facility that has been contracted by Thompson Pro-Metric for additional testing space.

The Public Hearing was closed.

Mrs. Conn gave the Department Report. The Petitioner had handed out graphics of the test facility. It does resemble a truck. This is a temporary structure located in the highly-visible US 31 Meridian Corporate Corridor which is mainly intense office uses. The Department feels this use is not compatible with other high-end office uses in this overlay. The Department recommended negative consideration. However, the Department would like the Board to have some compassion for this petitioner due to the fact of the slight miscommunication. They were told that they could have a Temporary Use, but later found out they needed a Use Variance. The Board could deny the request with a time extension to leave by the end of December or January.

Discussion followed on how long the truck had been at that location, the temporary use permit, who uses their facilities, and moving the truck to another location.

Mr. Molitor stated that the Board can grant the variance for a limited time.

Mrs. Conn stated that this use is not permitted in any zoning district in the township. Any location would need a Use Variance.

Ms. Osborne stated that the residents were very suspicious of the activities at the truck.

Mr. Dierckman suggested a donation to the ManorCare activity fund as an expression of regret to the residents for the hardship created.

Mr. Molitor stated the donation could be part of the motion.

Mr. Dierckman moved to approve **Docket No. 05100039 UV, MMTAT – Mobile Testing Center** through December 31, 2005 with the **Commitments** to be off the site by January 1, 2006 and to make a \$1500.00 donation to ManorCare at Summer Trace in 2005. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**.

For the record, Mr. Dierckman stated that he has no financial interest in Summer Trace.

I. Old Business.

- 1i. **WITHDRAWN Nathan Hawkins Addition, lot 5 – Bob Wilson Consulting**
~~The applicant seeks the following development standards variance:
Docket No. 05090013 V – ZO Chapter 23D.03.A.1(a)(iii) – over 70% lot coverage
The site is located at 210 N Range Line Rd. It is zoned B-1/Business and is within the
Old Town Overlay. Filed by Penny Pruett for Bob Wilson Consulting.~~

Cindy Schambre wanted to clarify the lighting issue for the Best Buy location. There are two spot lights on light poles in the parking lot that face the building. They are specifically designed to light up the recessed areas. They do shine up onto the building somewhat. They are not pointed toward the signs.

Mr. Dierckman asked if the Hilton Garden INN needed a variance because they do not have enough conference room space for the number of guest rooms.

Mr. Hollibaugh stated the Department was still trying to get to the bottom of it. He believed that when the Windsor was across the street that was part of the lawsuit. But when it moved further south, he believed it was part of a compromise. There is another hotel interested in locating in the corridor and they are asking the same questions.

J. New Business.

Mr. Molitor distributed the schedule for the December 12, 2005 meeting. It would require suspension of the rules to allow twice as much time for the petitioner and remonstrators to speak. Considering the interest of the issue and the complexity of the blasting topic, they will need more time allotted. The Board can ask them to stick to this time frame.

Mrs. Conn stated that Martin Marietta is discussing an executive summary for the packet, but it will probably still be a large packet.

Mr. Molitor stated the neighborhood remonstrator group does not have an attorney.

Mr. Hollibaugh stated there are a couple of Kingswood Subdivision factions and it had been suggested that the Chambers might not be big enough to hold everyone.

Mr. Molitor stated they would try to discover if the room would be large enough. If it is not, they will see if they can get a larger room.

Discussion followed on the number of people and how long they would be able to speak.

Mr. Dierckman moved to approve the **outline for the December 12, 2002 meeting**. The motion was seconded by Mr. Hawkins and **APPROVED 3-0**. Mr. Broach recused himself.

Discussion followed regarding the January meeting date. The City Council will be using the Chambers on the regular meeting date of Monday, January 23, 2006. It was decided to keep the meeting on the regular date and try to find another location.

K. Adjourn.

Mrs. Plavchak moved to adjourn. The motion was seconded by Mr. Hawkins and **APPROVED 4-0**. The meeting was adjourned at 8:35 PM.

James R. Hawkins, President

Connie Tingley, Secretary